



UNITED STATES PATENT AND TRADEMARK OFFICE

W  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,157	09/28/2001	Richard D. Harris	01AB091	4953

7590                    03/12/2003

Susan M. Donahue  
Rockwell Automation  
1201 South Second Street, 704P  
Milwaukee, WI 53204

EXAMINER

TRINH, MICHAEL MANH

ART UNIT

PAPER NUMBER

2822

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/967,157	HARRIS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael M Trinh	2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days ~~MONTHS~~ FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 December 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14, 16-23, 25-32, 34-48 and 51-102 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-14, 16-23, 25-32, 34-48, 51-102 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

Art Unit: 2822

## DETAILED ACTION

\*\*\* This office action is in response to Applicant's amendment filed on November 19, 2002. Claims 1-14,16-23,25-32,34-48,51-102 are pending.

### *Election/Restriction*

After reviewing of Applicant's amendment, separate remarks and analyses (about 102 claims), it is noted this application contains groups of the claims directed to the following patentable distinct species of the claimed invention.

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
  - I. Claims 1-6,10-28,53-58,62-80, drawn to a first method of making a first MEM structure as illustrated from Figures 1-6.
  - II. Claims 29-32,34,81-85, drawn to a second method of making a second MEM structure as illustrated from Figures 12-15.
  - III. Claims 35-38,86-89,7,59, drawn to a third method of making a third MEM structure as illustrated from Figures 7-11.
  - IV. Claims 39-48,51-52,90-102,8,9,<sup>60 - 61</sup>, drawn to a fourth method of making a fourth MEM structure as illustrated from Figures 16-22.

Currently, there is no generic claim. Group I invention to Group IV invention are species and distinct, each from the other, because the method of Group I invention at least recites a wafer having at least a first layer and a second layer, removing a portion of the first layer to form a bridge member, wherein the substrate provides at least one wall that at least partially defines a void; while Group II invention at least differently draws to deposit a layer on the wafer in the recess defined by a pair of spacers formed at opposite ends of the wafer; while Group III invention at least differently draws to partially etch into a surface of the wafer to form a recess and depositing a layer on the wafer in the recess so as to form a bridge; while Group IV invention at least differently draws to etch a first layer on the wafer to form a bridge and etching a recess into a surface of a substrate before attaching the wafer to the substrate having the recess.

Because these inventions are species and distinct for the reasons given above, the fields of search are not co-extensive and separate examination would be required, restriction for examination purposes as indicated is proper.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

Art Unit: 2822

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

\*\*\*\*\*

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trinh whose telephone number is (703) 308-2554. The examiner can normally be reached on Monday through Friday, from 9:00 Am to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian, can be reached on (703) 308-4905. The fax phone number for this Group is (703) 305-3432 or (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

-Oasc-



Michael Trinh  
Primary Examiner